

# SB0779



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB0779

Introduced 2/4/2015, by Sen. Ira I. Silverstein

#### SYNOPSIS AS INTRODUCED:

725 ILCS 5/108-1

from Ch. 38, par. 108-1

Amends the Code of Criminal Procedure of 1963. Provides that a law enforcement officer may not search or inspect a motor vehicle, its contents, the driver, or a passenger solely because the driver or passenger consented to the search. Provides that a law enforcement officer may only search or inspect a motor vehicle, its contents, the driver, or a passenger: (1) under a warrant for that search issued under the Search and Seizure Article of the Code; (2) under certain circumstances following a lawful arrest; or (3) if the law enforcement officer has probable cause that an offense or ordinance violation has been committed by the driver or passenger.

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A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is  
5 amended by changing Section 108-1 as follows:

6 (725 ILCS 5/108-1) (from Ch. 38, par. 108-1)

7 Sec. 108-1. Search without warrant.

8 (1) When a lawful arrest is effected a peace officer may  
9 reasonably search the person arrested and the area within such  
10 person's immediate presence for the purpose of:

11 (a) protecting the officer from attack; or

12 (b) preventing the person from escaping; or

13 (c) discovering the fruits of the crime; or

14 (d) discovering any instruments, articles, or things  
15 which may have been used in the commission of, or which may  
16 constitute evidence of, an offense.

17 (2) (Blank).

18 (3) A law enforcement officer may not search or inspect a  
19 motor vehicle, its contents, the driver, or a passenger solely  
20 because of a violation of Section 12-603.1 of the Illinois  
21 Vehicle Code.

22 (4) A law enforcement officer may not search or inspect a  
23 motor vehicle, its contents, the driver, or a passenger solely

1 because the driver or passenger consented to the search. A law  
2 enforcement officer may only search or inspect a motor vehicle,  
3 its contents, the driver, or a passenger:

4 (A) under a warrant for that search issued under this  
5 Article;

6 (B) under the conditions described in subsection (1) of  
7 this Section; or

8 (C) if the law enforcement officer has probable cause  
9 that an offense or ordinance violation has been committed  
10 by the driver or passenger.

11 (Source: P.A. 93-99, eff. 7-3-03.)